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6 Attorneys for Plaintiffs

7
8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 GIL CROSTHWAITE, at al., as Trustees of the
OPERATING ENGINEERS HEALTH AND
12 WELFARE TRUST FUND FOR NORTHERN
CALIFORNIA, et al.,
13

14 Plaintiffs,

15 v.

16 KICKIN ENTERPRISES, INC., and STEVE
LAWRENCE SCHALLER, Individually,
17

18 Defendants.
19

Case No.: C07-6460 WDB

**NOTICE OF VOLUNTARY DISMISSAL
WITHOUT PREJUDICE**

20 PLEASE TAKE NOTICE that pursuant to F.R.C.P., Rule 41(a)(1), plaintiffs GIL
21 CROSTHWAITE and RUSS BURNS, in their respective capacities as Trustees of the
22 OPERATING ENGINEERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN
23 CALIFORNIA, et al., voluntarily dismiss, without prejudice, their claim against defendants
24 KICKIN ENTERPRISES, INC., and STEVE LAWRENCE SCHALLER, individually.
25 Defendants have neither served an answer nor moved for summary judgment, and plaintiffs have
26 not previously filed or dismissed any similar action against defendants.
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**NOTICE OF VOLUNTARY DISMISSAL
CASE NO.: C07-6460 WDB**

1 Defendants entered into a Stipulation for Entry of Judgment ("Stipulation") establishing a
2 payment plan to satisfy the amounts owed by defendants to plaintiffs in this current action. A true
3 and accurate copy of the Stipulation is attached hereto as *Exhibit A*. Pursuant to paragraph 7.a. of
4 the Stipulation, plaintiffs may file the Stipulation should defendants fail to make any payment
5 required under the Stipulation.
6

7 It is therefore requested that this action be dismissed without prejudice, and that the Court
8 shall retain jurisdiction over this matter.

9 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above
10 entitled action, and that the foregoing is true of my own knowledge.

11 Executed this 30th day of May, 2008, at San Francisco, California.
12
13

14 SALTZMAN & JOHNSON
15 LAW CORPORATION

16 By: _____/s/_____
17 Muriel B. Kaplan
18 Attorneys for Plaintiffs

19 IT IS SO ORDERED.

20 This case is dismissed without prejudice and the Court shall retain jurisdiction over this
21 matter. for one year.

22 Date: June 2, 2008.
23 _____



24 UNITED STATES DISTRICT COURT JUDGE
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28

PROOF OF SERVICE

I, the undersigned, declare:

I am a citizen of the United States and am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 44 Montgomery Street, Suite 2110, San Francisco, California 94104.

On May 30, 2008, I served the following document:

NOTICE OF VOLUNTARY DISMISSAL

on the interested parties in said action by placing a true and exact copy of each document in a sealed envelope with postage thereon fully prepaid, in a United States Post Office box in San Francisco, California, addressed as follows:

**Steve L. Schaller
Agent for Service of Process
Kickin Enterprises, Inc.
8865 Airport Blvd., Suite D
Redding, California 96002**

**Steve L. Schaller
8865 Airport Blvd., Suite D
Redding, California 96002**

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 30th day of May, 2008, at San Francisco, California.

_____/s/_____
Vanessa de Fábrega